

SECTION 4: GUIDELINES FOR APPLICANTS

The following guidance pertains to all applicants. Applicants must meet all of the following criteria. Please read this section carefully. You may call the Department at (202)-442-7281 if you have any questions regarding the following information.

Development Team Requirements

1. Previous Project Performance: Members of the applicant's team may not:

- Have participated as an owner or manager in the development or operation of a project that has defaulted on a Department or other government or private sector loan in the previous 10 years.

In connection with Department loans, waivers of this limitation may be granted for team members that were not involved in the defaulted loan for at least one year prior to the default. In the case of other defaulted loans, waivers may be granted based on the circumstances surrounding the particular default. In all cases to be considered for a waiver of these limitations, requests must be submitted in writing to DHCD at least 30 days in advance of the application deadline. Among the factors DHCD may consider in granting a waiver are;

1. Reasons for the default;
 2. The applicant's role in the defaulted property and responsibility for guaranties or operations of the defaulted property; and
 3. Performance of other properties in the applicant's portfolio;
- Have consistently failed to provide documentation required by the Department in connection with other loan applications or the management and operation of other, existing developments;
 - Have been involuntarily removed within the previous 5 years as a general partner or managing member from any affordable housing project whether or not financed or subsidized by the programs of this Department;
 - Have a current Limited Denial of Participation from the U. S. Department of Housing and Urban Development (HUD); or
 - Be debarred, suspended or voluntarily excluded from participation in any federal, state or local program.

Failure to disclose required information on the application may subject the applicant to penalties under District of Columbia law.

For the purposes of the above, members of the development team are individuals or organizations, including officers and directors of corporate members of the team, general partners of partnership members, and members of limited liability company members, that are involved in the development of the project in any of the following roles:

- Applicant;
- Developer and co-developer, if any;
- Guarantor(s), if applicable;
- Owner (including any ownership interest other than limited partners);
- Architect;
- General Contractor;
- Management Agent; or
- Consultant

2. Financial Capacity: In addition, members of the development team acting in the role of sponsor, developer, guarantor, or owner with chronic past due accounts, substantial liens or judgements, foreclosures or bankruptcies within the past five years will not be considered for funding. This evaluation will be based on a review of Department records, personal credit histories, commercial credit reports and other available data.

3. Previous Participation: Development team members are also ineligible to participate in the program if they received reservations or commitments of funding but were unable to carry the project forward. This prohibition applies only to reservations or commitments issued within four years prior to the date of the application. For tax credits, this includes entities that:

- Received a reservation but were unable to place their projects in service in the year of their reservation or to meet the requirements to receive a Carryover Allocation;
- Received a Carryover Allocation but could not meet the 10% test necessary to keep a Carryover Allocation; or
- Received a Carryover Allocation or other Allocation but could not place their projects in service within the time required by the tax credit program.

For loan programs, this includes entities that received a reservation or commitment of loan funds but were unable to close the financing.

4. No Fees Due: Development team members are also ineligible to participate in the program if they have unpaid fees or other obligations due to the Department on other projects. The development team should provide a list of any names under which it may have been organized previously.

Community Support Requirements

As a condition of closing, the applicant must include a letter of support from the affected Advisory Neighborhood Commission(s) (ANC). The letter must indicate its support of the project in the current round of competition. Support should not be contingent upon the completion of tasks or improvements that are unrelated to the project, such as off-site work that is not necessary for completion of the project.

New Community Support Requirements

Applicants submitting an application under this RFP must demonstrate that the appropriate Neighborhood Service Coordinator has been informed of the project. It is the responsibility of the applicant to contact the Neighborhood Service Coordinator and include appropriate documentation regarding the notification during the project underwriting process.

Site Requirements

1. Site Control: Sponsors must have sufficient site control to allow projects to move forward if they receive a reservation of funds. At the time of application, site control should extend for at least 180 days after the application deadline date (including extension options) with an option to continue the control for another 180 days. Acceptable evidence of site control includes deeds, contracts of sale, leases, purchase options or other forms at the Department's discretion.

2. Utility Availability: Evidence that public water, sewer, electric, gas, telephone and other utility services are at project sites or will be available during the construction or rehabilitation period must be provided. Acceptable evidence of utility availability may include a letter from the development team's civil engineer, the utility company providing the service, a responsible local official or, for existing buildings, copies of recent utility bills.

3. Zoning: Properties should be properly zoned for their intended use. If a zoning change, variance or exception is required, sponsors must provide the following information in the application:

- Documentation illustrating the present status of the proposed zoning change, the local planning and zoning process;
- Contact information for a local official familiar with the project and responsible for the approval process; and
- A detailed schedule with projected dates for obtaining the required approvals corresponding to the project schedule in the application (Form 202).

Project Location and Marketability

Although DHCD will accept proposals for eligible projects throughout the city, we will concentrate 65 percent¹ of our funding in 13 areas that the Mayor has designated as strategic neighborhood investment areas, as well as the two Neighborhood Revitalization Strategic Areas (NRSAs). The strategic neighborhood investment areas are:

- Anacostia
- Bellevue
- Columbia Heights
- Congress Heights
- Georgia Avenue, N.W.
- H Street, N.E.
- Howard University / LeDroit Park
- Minnesota / Benning
- Near Southeast
- Pennsylvania Avenue / Fairlawn
- Shaw
- Takoma Park
- Trinidad / Ivy City

The NRSAs are:

- Georgia Avenue, N.W.²
- Carver/Langston Terrace-Ivy City-Trinidad³

A map for each area street boundary is provided in the RFP Reference Guidebook

Occupancy Restrictions and Rent Levels

At a minimum, sponsors must agree that low-income units in the projects will be rented to families with incomes that do not exceed the levels required under the proposed funding source, as indicated in the Request for Proposals.

The low-income units in the projects must be rent restricted as required by the funding source. For projects receiving project-based rental assistance, the application must include information concerning the actual rent to be paid by the tenants and the estimated subsidy that will be received by the project owner. For this analysis, the actual tenant-paid rent will be evaluated rather than the gross rent received resulting from the rental assistance. If any rental assistance is not project-based, the assisted portion of the rent should not be included in the project's income projections. In these cases, the gross rent will be evaluated and not the amount actually paid by the tenants.

Maximum unit rents (including tenant paid utilities) may not exceed 30% of the beneficiary gross income limit applicable to each unit. Under the CDBG and HOME programs, the gross income limit will be based on 1.5 persons per bedroom for units with one or more bedrooms and 1.0 person for efficiency units. For the HPTF Program, income limits are as shown below. Income limits can be found in the Request for Proposals for HOME, CDBG, and HPTF.

¹ Pending the receipt of sufficient applications to achieve this level of award.

² Georgia Avenue, NW has a dual designation as both an NRSA and a Strategic Area.

³ This NSRA has different boundaries than the Trinidad / Ivy City Strategic Area. See the RFP Program Guidebook for maps.

- Efficiency – 1 person
- One bedroom – 2 persons
- Two bedrooms – 3 persons
- Three bedrooms – 5 persons
- Four bedrooms – 7 persons
- Five bedrooms – 8 persons

For elderly projects, the imputed household size may not exceed three persons regardless of the number of bedrooms.

Rent levels including tenant paid utilities must be supported by market data. Rents should also allow for a reasonable affordability window so those tenants with incomes below the maximum levels are not paying a disproportionate percentage (i.e. greater than 30%) of their income for rent. The Department will consider the project's capture rate in reviewing the rents.

Relocation and Anti-Displacement Strategies

For existing and occupied buildings, the applicant must submit a draft of the relocation strategy for projects that result in the temporary or permanent displacement of current occupants. If the project will result in the relocation of any tenants (i.e. households or businesses), the Department requires that the applicant will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (42 U.S.C. 4601 also known as "URA") and §104(d) of the Housing and Community Development Act of 1974 [42 U.S.C. §5304(d)] **if HOME or CDBG funds are used**, or the local relocation regulation found at Title 10, District Code of Municipal Regulations (DCMR) Chapter 22 **if HPTF is used**, regarding resident notice and compensation.

Applicants should make themselves familiar with the requirements of URA, §104(d) or 10 DCMR 22, as applicable, including notices from both the purchaser and seller to residents that may apply to their project. Information on federal relocation requirements may be found on the Internet at <http://www.hud.gov/offices/cpd/library/relocation/index.cfm>.

Financing Terms and Conditions

1. Other Financing: Letters of commitment, intent to provide financing or interest must be furnished for all funding sources identified in the application. At a minimum, letters of intent must state that projects appear feasible and show the amount of anticipated funding, general repayment terms and any conditions. If financing will be subsidized or insured by another institution, evidence must be provided that the appropriate applications have been prepared and have been or are ready to be filed.

For projects that will be syndicated for tax credit equity investment, sponsors must provide a proposal from at least one syndication firm showing the amount of tax credit expected, investor type, expected net proceeds, syndication costs and pay-in schedule.

2. Project Assistance: In general, loans through the department's funding must be fully repaid on an amortizing basis at an annual rate of 4% for a term of up to 40 years. If the development

cannot support the loan at a 4% interest rate, the rate may be reduced at the Department's discretion. The maximum loan per project is the lesser of \$2.0 million or the total development cost of the project multiplied by the percentage of income-restricted units. Funding requests in excess of \$2.0 million will be considered on a case-by-case basis.

To the extent possible, the Department's funds must be repaid on an amortizing basis; however, at the Department's discretion, loans may be repaid to the Department on a cash flow basis. If the loan will be repaid on a cash flow basis, the Department expects to receive 100% of the net cash flow. All cash flow loans must be repaid at the end of the loan term.

The sponsor may request a waiver of this requirement in writing, with detailed and specific reasons for the waiver request, at the time of application or, if the need for the waiver arises after application, and before execution of LOC, DHCD will evaluate each waiver request on a case-by-case basis.

Low-Income Housing Tax Credits

The tax credit reservation or allocation for any single project is limited to \$700,000. Reservations or allocations approaching this amount may be split over two or more calendar years. Additional conditions and restrictions on tax credit reservations and allocations are provided in the Qualified Allocation Plan, which is available on the Department's web site at <http://www.dhcd.dc.gov/info/publications.shtm>.

Note that in order to balance the demand for DHCD funds and tax credits, the Department reserves the right to decrease the amount of tax credits requested in the application.

Construction or Rehabilitation Costs

The construction or rehabilitation costs for projects must be within a reasonable range for the scope of work proposed. If the proposed costs per gross square foot exceed the maximum limits outlined below, sponsors must submit a request for waiver that includes a detailed explanation of the reason construction or rehabilitation costs are outside of this range. Staff will evaluate waiver requests for reasonableness on a case-by-case basis to determine compliance with the threshold requirements. Construction or rehabilitation costs include all work, including site development, associated with the physical development of projects. The projects' costs are obtained by dividing the amount of the construction or rehabilitation contract by the gross square footage of the buildings to be constructed or renovated. The construction contingency should not be factored into this equation.

Maximum Construction Costs per Gross Square Foot			
Type of Building	New Construction	Substantial Rehabilitation	Moderate Rehabilitation
Townhouses	\$90	\$72	\$40
Garden Apartments	78	74	46
Elevator Buildings (≤ 5 floors)	78	74	46
Mid-rise Buildings	90	70	61

For projects that consist of the rehabilitation of existing buildings, the Department has established a minimum rehabilitation standard to ensure that meaningful, and not just cosmetic, rehabilitation is undertaken. The total hard construction costs (exclusive of fees or overhead items) of rehabilitation for projects must be at least \$15.00 per square foot per unit and supported by a building evaluation report performed by an engineer or other qualified professional. This minimum may be waived for projects that can demonstrate both a strong need for preservation of affordable housing in the market area and that affordable housing units will be lost if the project is not financed using Department funds.

Lead Hazard Elimination

The Department is committed to the goal of 100% elimination of risk from lead hazards in housing. Any rehabilitation of existing buildings must meet HUD/EPA clearance standards and must be certified by the District's Department of Health (DOH) as lead-safe. All abatement and clean-up must be carried out in accordance with the 1992 Housing and Community Development Act included in Title X (Title Ten) of 24 CFR 35 Subpart H – Rehabilitation; and with District requirements found in Title 6, Chapter 997 of the D.C. Code. All abatement contractors or subcontractors must be certified and accredited by the District. For information on District abatement requirements, please call 202-535-1934, the Department of Health's Lead Paint Risk Assessment and Certification Office.

Development Budget

1. Acquisition Price: For projects involving acquisition and rehabilitation of existing buildings or the purchase of raw land, the acquisition price may not exceed the standards set forth below.

- For an arms length transaction, the maximum acquisition price may not exceed the lesser of the contract sales price or the appraised value of the property.
- For transactions involving a change in use, appraisals will include an “as is” value and an after rehabilitation value under its projected use. In such cases, the acquisition cost may not exceed the lesser of the two values or any lower value based upon the standards for related party transactions described in this section.
- For a related party transaction where the property was acquired less than two years before the application date, the maximum acquisition price may not exceed the lesser of the appraised value of the property or the original acquisition price plus carrying costs acceptable to the Department.
- For a related party transaction where the property was acquired two or more years before the application date, the maximum acquisition price may not exceed the appraised value of the property.

- For schools and other sites owned by the District, applicants may not use DHCD loan funds to purchase these sites for conversion to housing.

For purposes of this section, acquisition is defined as transfer of title and legal ownership. Applicants with questions regarding the definition of arms-length and related-party transactions should contact the Department. With the approval of the Department and in order to meet the 10% test for an allocation of tax credits, the maximum acquisition price may be increased to include real estate taxes and other carrying costs associated with owning the site during the period after acquisition and application.

The acquisition price must be supported by an appraisal performed by a licensed independent professional appraiser. Independent, professional appraisers under contract with the Department will perform the appraisal, and the applicant will pay the costs of any required appraisals. The Department, at its sole discretion, may accept an appraisal that is required by another lender and prepared by an independent professional appraiser for that lender.

2. *Syndication Related Costs:* For projects that are syndicated for tax credits, the equity raise-up rate should be within current market standards. When the project's gap analysis is performed, the Department will review the raise-up rate to ensure that it is competitive in the tax credit market.

3. *Operating Reserves:* Operating reserves shall range from three to six months of projected operating expenses plus all required debt service payments and monthly replacement reserve payments. For projects with proposed operating reserves that are outside of this range, sponsors must submit a request for a waiver that includes a detailed explanation of the reasons operating reserves for the project should be set at a different level. Staff will evaluate waiver requests for reasonableness on a case-by-case basis to determine compliance with the threshold limits. The Department when evaluating guaranties for completion, lease-up, or operations will consider the demonstrated financial capacity and liquidity of the owner or other guarantor.

At a minimum, funded operating reserves must remain in place until the project has achieved economic break-even operations for a fiscal year confirmed by its annual audit and has reached 90% occupancy for 12 consecutive months. Reserves may then be released over the next three or more years at the discretion of the Department, provided the project continues to achieve economic break-even operations and 90% occupancy. Upon release, operating reserves generally may be used to pay any outstanding deferred developer's fee and then should be used to reduce any DHCD loan.

Limitation on Fees

Fees in the development budget are limited according to the standards established by the Department. Projects subject to federal subsidy layering requirements have the same limitations under a Memorandum of Understanding between the Department and HUD. See the Department's Qualified Allocation Plan for further information.

Category	Limitation
Builder's Profit	5% to 10% of the net construction costs
Builder's Overhead	2% to 3% of the net construction costs
General Requirements	5% to 10% of the net construction costs
Architect Design	2% to 5% of the construction contract
Architect Administration	1% to 3% of the construction contract
Developer's Fee	10% to 15% of total development costs not to exceed 2.5 million

Please see below for additional information

1. Net Construction Costs: Net construction costs are equal to the construction contract amount less builder's profit, builder's overhead, general requirements and bond fees.

2. Builder's Profit: A builder's profit is permitted even if a relationship or identity of interest exists between the developer and general contractor. However, all general contractors must meet departmental guidelines and be approved to act as a general contractor for the project. The allowable profit will range from 5% to 10% of the net construction costs.

3. Builder's Overhead: Allowable builder's overhead may range from 2% to 3% of the net construction costs with the lower percentage applicable to larger projects and the higher percentage to projects of lesser amounts.

4. General Requirements: The allowable general requirements are determined based on the size of the project. General requirements may range from 5% to 10% of net construction costs.

5. Architect's Fees: The allowable architect's fee for project design may range from 2% to 5% of the construction contract amount. For architectural administration, the allowable fee may range from 1% to 3%.

6. Developer's Fee: The developer's fee must include all fees paid to processing agents and development consultants. The range of allowable developer's fees is from 10% to 15% of total development costs based on the table below. The developer's fee may not exceed \$2.5 million. For projects with proposed developers' fees in excess of \$2.5 million, sponsors must submit a request for a waiver that includes a detailed explanation of the reasons for increased developer's fee. Staff will evaluate waiver requests for reasonableness on a case-by-case basis to determine compliance with the threshold requirements. Any fee in excess of \$2.5 million must be recommended by DHCD's Loan Review Committee and approved by the Director of the Department. Increasing the fee to increase the tax credit basis is not a valid justification for a waiver.

Fee on Development Costs	Fee on Acquisition Costs
• 15% on first \$10,000,000	• 5% on first \$10,000,000
• 10% on amount over \$10,000,000	• 2.5% on amounts over \$10,000,000

Total development costs include the following: expenses related to the actual construction or rehabilitation of the project; fees related to the construction or rehabilitation such as architecture,

engineering and legal expenses; financing fees and charges such as construction interest, taxes, insurance and lender fees; and acquisition related costs. Total development costs do not include the following: hard or soft cost contingencies, syndication related costs; funded guarantee and reserve accounts that are required by lenders or investors; and developers' fees.

Financial Pro Forma

The financial pro forma of projects will be evaluated based on a review of estimated operating expenses, construction costs, reserve for replacement deposits, vacancy rates and debt service coverage ratios. Sponsors must submit a minimum 20-year pro forma.

1. Operating Expenses: Estimated annual operating expenses, including real estate taxes and excluding reserve for replacement deposits, should range from \$2,500 to \$4,500 per unit. For projects with proposed operating expenses that are outside of this range, sponsors must submit a request for waiver that includes a detailed explanation of the reasons operating expenses are expected to be outside the range and support these estimates by the market analysis submitted with the application. Staff also will evaluate, where possible, waiver requests for reasonableness on a case-by-case comparison basis against similar properties in the DHCD portfolio to determine compliance with the threshold requirements.

2. Reserve for Replacement Deposits: Proposed reserve for replacement deposits must not be less than the minimum standards for the scope of work proposed.

- For new construction or substantial rehabilitation projects a minimum annual deposit of \$250 per unit.
- For moderate rehabilitation projects a minimum annual deposit of \$300 per unit.

For rehabilitation projects, a capital needs assessment or comparable engineering report will be required before closing in order to establish a final amount for the reserve for replacement deposit. For all projects, the Department reserves the right to adjust the reserve for replacement amount based on a new capital needs assessment every five years.

3. Vacancy Rate: The pro forma vacancy rate must be supported by the market environment described in the appraisal. During subsequent underwriting by Department staff, the rate may be adjusted up or down to reflect documented market conditions.

4. Debt Service Coverage Ratios: For DHCD subordinated debt, projects must have a minimum debt service coverage ratio of 1.1 to 1 by the first year of sustaining operations after considering all primary debt service payments, including bond financed mortgage payments. A debt coverage ratio of 1 to 1 will be required for other amortizing debt service on DHCD financing. The Department will work with the sponsor to meet more stringent requirements imposed by other lenders or equity providers.

5. Project Phasing: Applications for subsequent phases of projects already in receipt of a reservation of loan funds or tax credit allocations must show evidence that the original phase(s) of the project achieved sustaining occupancy. DFD defines sustaining occupancy for this

purpose as a minimum of 3 months of break-even operations and 90% or above occupancy. The Department may waive this requirement upon specific request provided that such requests include a market study meeting the criteria of this plan and demonstrating that the subsequent phase(s) will not adversely affect the leasing and operations of the initial phase.

Project Schedule

Sponsors must submit a project completion schedule with the application. Sponsors are expected to meet the development schedules as proposed if projects are approved for reservations of funding. In cases where a zoning change, variance or exception is necessary, schedules must be consistent with the analysis provided by the development team's zoning attorney or engineer.

The Department must approve any significant deviations from project schedules. In these cases, sponsors must submit updated schedules, including an explanation for the delays, to the Department for review. Sponsors must promptly notify the Department if for any reason projects that received reservations become infeasible.

The Department will monitor the progress of projects to ensure timely completion. Tax credit reservations and tax credit Carryover Allocations will be canceled if the project falls too far behind its schedule in the Department's determination or if it is determined that Departmental resources are in jeopardy of being lost due to nonperformance by sponsors.

For projects requesting loan funds, the applicant's processing schedule must be consistent with the Department's loan submission process. For a project requesting an allocation of current year tax credits, the sponsor must demonstrate that the project will meet the requirements for an allocation of the current year's tax credits. Typically, this means that the sponsor must incur a minimum of 10% of the reasonably expected basis in the current year. For forward reservations of future year tax credits, the applicant must meet the 10% test within five months of receiving a Carryover Allocation from the Department, and place the project in service by the end of the second year following the Carryover Allocation. Please refer to the Qualified Allocation Plan for more information.